

Assembly Constitutional Amendment

No. 6

Introduced by Assembly Member Charles Calderon

December 16, 2008

Assembly Constitutional Amendment No. 6—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by repealing and adding Section 5 of Article II thereof, relating to primary elections.

LEGISLATIVE COUNSEL'S DIGEST

ACA 6, as introduced, Charles Calderon. Elections: primary elections.

Existing provisions of the California Constitution require the Legislature to provide for primary elections for partisan offices, including an open presidential primary election, as specified.

This measure, designated the “Voter Choice Act,” would instead require that all candidates be listed on a single voter choice primary ballot for primary elections for the offices of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Member of the Assembly, State Senator, and Member of the State Board of Equalization. The measure would provide that a candidate who receives a majority of the votes for one of these offices at the voter choice primary would be declared the winner. The measure would further provide that, if no candidate receives a majority of votes as to an office at the primary, the 2 candidates who receive the greatest number of votes would be listed on a general election ballot for that office.

The measure would require a ballot separate from the voter choice primary election ballot to be used for primary elections for congressional

offices and for delegates to a national political party convention at which a nominee for President of the United States is chosen, as specified.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2009–10 Regular
3 Session commencing on the first day of December 2008, two-thirds
4 of the membership of each house concurring, hereby proposes to
5 the people of the State of California, that the Constitution of the
6 State be amended as follows:

7 First—That this measure shall be known and may be cited as
8 the “Voter Choice Act.”

9 Second—That the people of the State of California hereby find
10 and declare all of the following:

11 (a) The current system of primaries in California limits voters’
12 choices and has resulted in a steady decline in voter participation
13 in this State.

14 (b) The Voter Choice Act will establish an election system in
15 California that will allow all voters to vote for state elective offices
16 on a primary election ballot regardless of any party registration or
17 party preference of the candidates or the voters.

18 (c) A primary conducted according to the Voter Choice Act will
19 foster more choice for California voters, greater participation,
20 increased privacy, and a sense of fairness without burdening
21 political parties’ constitutional rights. Encouraging California
22 citizens to vote is a legitimate and essential objective of the State,
23 and will preserve constitutional order by ensuring a strong,
24 participatory democratic process.

25 (d) A primary conducted according to the Voter Choice Act
26 will permit California voters to select the candidates they prefer,
27 regardless of the candidates’ party registration or stated party
28 preference. This type of primary will result in more competitive
29 election contests in which candidates will be able to take positions
30 on a wide range of issues.

31 (e) A primary conducted according to the Voter Choice Act will
32 give California voters a real choice. A voter will be able to vote
33 for any candidate for any state elective office in the primary
34 election, and will not be limited to voting only for those candidates
35 of the party, if any, with which the voter is registered.

1 (f) A primary conducted according to the Voter Choice Act will
2 guarantee competition in the general election. California voters
3 will be given two competitive choices in the general election,
4 involving greater voter participation than in the primary election.
5 This will replace the current system in which the political parties
6 protect incumbents through reapportionment plans, making many
7 state legislative seats safe for incumbents or candidates of one or
8 the other of the major parties.

9 (g) A primary conducted according to the Voter Choice Act
10 will result in greater voter participation. By allowing voters
11 complete freedom of choice among many candidates for state
12 elective office, regardless of the candidates' party registration or
13 party preference, a primary conducted according to the Voter
14 Choice Act will encourage increased voter participation. In
15 addition, some two million voters who have chosen not to register
16 with a party, comprising some 15 percent of all California voters,
17 will have a chance to participate fully in the primary.

18 (h) A primary conducted according to the Voter Choice Act
19 will result in a greater number of candidates running for state
20 elective offices. Candidates who are not registered with a political
21 party will now be able to compete in primary elections.

22 (i) A primary conducted according to the Voter Choice Act will
23 preserve the right of California's political parties to endorse
24 candidates for state elective offices by any method selected by the
25 parties.

26 (j) A primary conducted according to the Voter Choice Act will
27 not infringe on the constitutional rights of political parties.
28 California political parties will continue to decide whether nonparty
29 members may participate in the selection of candidates for
30 congressional offices and delegates to a national political party
31 convention at which a nominee for President of the United States
32 is chosen, the selection of members of political party county central
33 committees, or both.

34 (k) A primary conducted according to the Voter Choice Act
35 will not affect the power of the Legislature to alter existing law
36 governing the means by which political parties select delegates to
37 national political party conventions at which a party nominee for
38 President of the United States is chosen, elect or select members
39 of political party state and county central committees, or both.

1 (l) A political party will have the right to determine whether or
2 not the voter registration status of candidates registered as voters
3 with that particular political party will be included on the ballot,
4 sample ballot, voter pamphlet, and other related election materials
5 intended for distribution to the voters.

6 Third—That the People of the State of California hereby declare
7 that their purpose and intent in approving the Voter Choice Act is
8 as follows:

9 (a) To amend the current primary election system in California,
10 which limits voters' choices and has resulted in a steady decline
11 in voter participation in this State.

12 (b) To establish an election system that allows all California
13 voters to vote for candidates for state elected offices on a primary
14 election ballot, regardless of the party registration or stated party
15 preference, if any, of the candidates.

16 (c) To foster more choice for California voters, greater
17 participation, increased privacy, and a sense of fairness, without
18 burdening political parties' constitutional rights.

19 (d) To increase voter participation by allowing California voters
20 complete freedom of choice to select their preferred candidates,
21 regardless of the candidates' party registration.

22 (e) To give California voters a real choice by allowing them to
23 vote for any candidate for state elective offices in the primary
24 election.

25 (f) To increase competition in the general election by giving
26 California voters two competitive choices in the general election,
27 where some two to four million more voters vote than in the
28 primary election.

29 (g) To allow some two million California voters who have
30 chosen not to register with a political party the chance to participate
31 fully in a primary conducted according to the Voter Choice Act.

32 (h) To encourage a greater number of candidates to run for state
33 elective offices.

34 (i) To preserve the right of California's political parties to
35 endorse candidates for state elective offices and to decide whether
36 nonparty members may participate in the selection of a party's
37 presidential delegates, party county central committee members,
38 or both.

39 (j) To protect the constitutional rights of political parties.

1 (k) To retain existing law and the power of the Legislature to
2 alter existing law governing the means by which political parties
3 select delegates to national political party conventions, elect or
4 select members of political party state and county central
5 committees, or both.

6 (l) To give each qualified political party the right to determine
7 whether the voter registration status of candidates registered with
8 the party will be included on the ballot and other related election
9 materials intended for distribution to the voters.

10 Fourth—That Section 5 of Article II thereof is repealed.

11 ~~SEC. 5. (a) The Legislature shall provide for primary elections~~
12 ~~for partisan offices, including an open presidential primary whereby~~
13 ~~the candidates on the ballot are those found by the Secretary of~~
14 ~~State to be recognized candidates throughout the nation or~~
15 ~~throughout California for the office of President of the United~~
16 ~~States, and those whose names are placed on the ballot by petition,~~
17 ~~but excluding any candidate who has withdrawn by filing an~~
18 ~~affidavit of noneandidacy.~~

19 ~~(b) A political party that participated in a primary election for~~
20 ~~a partisan office has the right to participate in the general election~~
21 ~~for that office and shall not be denied the ability to place on the~~
22 ~~general election ballot the candidate who received, at the primary~~
23 ~~election, the highest vote among that party's candidates.~~

24 Fifth—That Section 5 is added to Article II thereof, to read:

25 SEC. 5. (a) A direct or special primary election for each office
26 specified in subdivision (d) shall be held as a voter choice primary
27 election.

28 (b) A voter choice primary election is a primary election in
29 which each voter, regardless of any party affiliation, may vote for
30 any qualified candidate, including a qualified write-in candidate,
31 regardless of any party affiliation or party preference of the
32 candidate.

33 (c) All candidates at a voter choice primary election for each
34 office specified in subdivision (d) shall be listed on a single voter
35 choice primary ballot. If a candidate receives a majority of the
36 votes for an office on the voter choice primary ballot, that candidate
37 shall be declared elected. If no candidate receives a majority of
38 the votes for an office on the voter choice primary ballot, the two
39 candidates who receive the greatest number of votes for each office
40 shall be listed on the general election ballot for that office.

1 (d) The offices for which this section governs the primary
2 election are Governor, Lieutenant Governor, Attorney General,
3 Insurance Commissioner, Controller, Secretary of State, Treasurer,
4 Member of the Assembly, State Senator, and Member of the State
5 Board of Equalization.

6 (e) A ballot separate from the voter choice primary ballot shall
7 be used for primary elections for congressional offices and for
8 delegates to a national political party convention at which a
9 nominee for President of the United States is chosen, including an
10 open presidential primary whereby the candidates on the ballot
11 are those found by the Secretary of State to be recognized
12 candidates throughout the nation or throughout this State for the
13 office of President of the United States, and those whose names
14 are placed on the ballot by petition, but excluding any candidate
15 who has withdrawn by filing an affidavit of noncandidacy.